

Plaintiff

Civil Action No. 15-291 Erie

V.

JASON BROUS

Defendant

COMPLAINT

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction as the action arises under the Lanham Act, 15 U.S.C. § 1051 *et seq.* Subject matter jurisdiction is conferred by said Lanham Act, and in particular, 15 U.S.C. § 1121; and also by reason of 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction over common law and state statutory claims pursuant to 28 U.S.C. § 1367.
2. This Court may exercise personal jurisdiction over the defendant as to the causes asserted herein under 28 U.S.C. § 1391, and by reason of 42 Pa. C.S.A. § 5322 for the reason that the defendant has caused harm or tortious injury in this Commonwealth by acts outside of this Commonwealth.
3. Venue is proper in this District under 28 U.S.C. § 1391 (b).

PARTIES

4. Plaintiff Microtech Knives, Inc. (Microtech) is a corporation existing under the laws of the Commonwealth of Pennsylvania. Microtech has a principal place of business at 300 Chestnut Street Extension, Bradford, McKean County, Pennsylvania 16701.
5. Defendant Jason Brous (Brous) is an individual who resides at 440 Sycamore Drive, Buellton, Santa Barbara county California 93427.
6. Microtech is engaged in the business of designing, manufacturing, and selling knives. Microtech has an established reputation as a manufacturer of precision made very high quality knives. Microtech knives, to include all components thereof, are US made.
7. “Element” is a registered trademark for cutlery namely knives. A copy of the Certificate of Registration is attached as Exhibit A.
8. “Element” is an active registered mark as evidenced by the status printout from the US Patent & Trademark Office (USPTO) attached hereto as Exhibit B.
9. Microtech is the sole authorized user of the registered trademark “Element” by reason of an assignment of the owner thereof namely Anthony L. Marfione, who is the President of Microtech.

DEFENDANT’S UNLAWFUL CONDUCT

10. Defendant has sold and upon information and belief continues to offer for sale merchandise, and in particular knives, using the “Element” trademark.

11. Defendant has engaged in misleading and deceptive conduct by selling a knife using the name “Element,” which is intended for and likely to be confused with Plaintiff’s registered mark.
12. Defendant has caused dilution of the Microtech trademark by blurring and tarnishment in violation of 15 U.S.C. §1125 (c) (5) (B).

DAMAGE TO MICROTECH (PLAINTIFF)

13. Plaintiff has been damaged by defendant’s false and misleading use of Plaintiff’s registered trademark.
14. Plaintiff has experienced trade disparagement a legally protected interest under Pennsylvania law.

RELIEF SOUGHT

15. That Defendant’s use of the name “Element” in connection with commerce in knives be adjudged an infringement on Plaintiff’s registered mark.
16. That Defendant be ordered account for all knives produced for sale under the Element name or mark and to surrender for destruction all merchandise as well a promotional materials that infringes on Plaintiff’s trademarks.
17. That Defendant be ordered to renounce and disclaim publicly and by means likely to be discernable to entities involved in the knife and cutlery industry, any right to use the mark or name “Element” for knives cutlery or other such items for which Plaintiff has exclusive use.
18. That Defendant be ordered to notify all entities to whom Defendant has sold or consigned knives under the Element mark, that Microtech Knives, Inc. has the exclusive right to use said mark.
19. That Plaintiff be awarded such other relief as may be just and equitable including costs of suit.

Respectfully submitted,
Microtech Knives, Inc.

December 2, 2015

By s/ Daniel C Lawson
300 Chestnut St. Ext.
Bradford, PA 16701
dlawson@microtechknives.com
814 363 9260